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6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

8

9 Philip Thomas Coble,) No. CV 08-8058-PCT-MHM (LOA)

10 Plaintiff,) **ORDER**

11 vs.)

12 Navajo County Sheriff's Office, et al.,)

13 Defendants.)

14

15 Plaintiff Philip Thomas Coble, who is confined in the Arizona State Prison Complex,

16 Special Management Unit I, Florence, Arizona, has filed a *pro se* civil rights Complaint

17 pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. The Court

18 will dismiss the Complaint with leave to amend.

19 **I. Application to Proceed *In Forma Pauperis* and Filing Fee**

20 Plaintiff's Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.

21 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).

22 The Court will assess an initial partial filing fee of \$21.98. The remainder of the fee will be

23 collected monthly in payments of 20% of the previous month's income each time the amount

24 in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate

25 Order requiring the appropriate government agency to collect and forward the fees according

26 to the statutory formula.

27 **II. Statutory Screening of Prisoner Complaints**

28 The Court is required to screen complaints brought by prisoners seeking relief against

1 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.
 2 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised
 3 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may
 4 be granted, or that seek monetary relief from a defendant who is immune from such relief.
 5 28 U.S.C. § 1915A(b)(1), (2). If the Court determines that a pleading could be cured by the
 6 allegation of other facts, a *pro se* litigant is entitled to an opportunity to amend a complaint
 7 before dismissal of the action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000)
 8 (*en banc*). The Court should not, however, advise the litigant how to cure the defects. This
 9 type of advice “would undermine district judges’ role as impartial decisionmakers.” Pliler
 10 v. Ford, 542 U.S. 225, 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide
 11 whether the court was required to inform a litigant of deficiencies). Plaintiff’s Complaint
 12 will be dismissed for failure to state a claim with leave to amend because the Complaint may
 13 possibly be saved by amendment.

14 **III. Complaint**

15 Plaintiff alleges three counts for threats to his safety, denial of basic necessities, and
 16 violation of mail privileges. He sues the Navajo County Sheriff’s Office (NCSO). He also
 17 sues NCSO Deputy Commanders Burke, Duran, and Davis; NCSO Sergeants Hernandez and
 18 Nabors; and NCSO Detention Officers Spiecker and Halbig. Plaintiff seeks compensatory
 19 and injunctive relief.

20 **IV. Failure to State a Claim**

21 To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the
 22 conduct about which he complains was committed by a person acting under the color of state
 23 law and (2) the conduct deprived him of a federal constitutional or statutory right. Wood v.
 24 Ostrander, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a plaintiff must allege that he
 25 suffered a specific injury as a result of the conduct of a particular defendant and he must
 26 allege an affirmative link between the injury and the conduct of that defendant. Rizzo v.
 27 Goode, 423 U.S. 362, 371-72, 377 (1976).

28 / / /

1 **A. NCSO**

2 Plaintiff names the NCSO as a Defendant; however, it is not a proper defendant. In
3 Arizona, the responsibility for operating jails and caring for prisoners is placed by law upon
4 the sheriff, see A.R.S. §§ 11-441(A)(5), 31-101, and on the county, see A.R.S. §§ 11-251(8),
5 11-291(A). NCSO is simply an administrative creation of the sheriff to allow him to carry
6 out his statutory duties and is not a “person” amenable to suit pursuant to § 1983.
7 Accordingly, NCSO will be dismissed from this action as a Defendant.

8 **B. Remaining Defendants**

9 Although the remaining Defendants may properly be sued for constitutional
10 violations, Plaintiff fails to state a claim against any of them. “A plaintiff must allege facts,
11 not simply conclusions, that show that an individual was personally involved in the
12 deprivation of his civil rights.” Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998).
13 For an individual to be liable in his official capacity, a plaintiff must allege that the official
14 acted as a result of a policy, practice, or custom. See Cortez v. County of Los Angeles, 294
15 F.3d 1186, 1188 (9th Cir. 2001). A supervisor in his individual capacity, “is only liable for
16 constitutional violations of his subordinates if the supervisor participated in or directed the
17 violations, or knew of the violations and failed to act to prevent them.” Taylor v. List, 880
18 F.2d 1040, 1045 (9th Cir. 1989). To state a claim against a defendant, a plaintiff must also
19 allege how he was injured by a defendant’s alleged unconstitutional conduct. See, e.g.,
20 Lewis v. Casey, 518 U.S. 343, 349 (1996) (doctrine of standing requires that claimant have
21 suffered or will imminently suffer actual harm); Caswell v. Calderon, 363 F.3d 832, 836 (9th
22 Cir. 2004) (case-or-controversy requirement means that plaintiff must have an actual or
23 threatened injury traceable to the defendant and likely to be redressed by a favorable judicial
24 decision).

25 Plaintiff does not allege that any of the remaining Defendants enacted or enforced a
26 policy, custom, or practice that resulted in the denial of Plaintiff’s civil rights. Plaintiff also
27 has not alleged facts to support how any of the remaining Defendants directly violated his
28 constitutional rights. In addition, Plaintiff fails to allege how any act or omission of any of

1 the remaining Defendants resulted in an injury to Plaintiff. For these reasons, Plaintiff fails
2 to state a claim against any of the remaining Defendants.

3 C. Count I & II

4 In Counts I and II, Plaintiff alleges his constitutional rights were violated by his
5 conditions of confinement. Specifically, in Count I, he alleges his safety was jeopardized by
6 having to take showers while shackled. In Count II, he alleges that he only had access to a
7 toothbrush, soap, shampoo, and deodorant for one hour three days a week. He further alleges
8 that he was prohibited from having a plastic spoon or golf pencil and that he was kept in H-
9 pod for a longer period after he was found to have these unauthorized items.

10 Plaintiff alleges in part that unidentified deputy commanders denied his appeal(s) of
11 disciplinary sanctions, which resulted in his placement in the H-pod. Pretrial detainees have
12 a substantive due process right against restrictions that amount to punishment for criminal
13 offenses. Valdez v. Rosenbaum, 302 F.3d 1039, 1045 (9th Cir. 2002) (citing United States
14 v. Salerno, 481 U.S. 739, 746 (1987); Bell v. Wolfish, 441 U.S. 520, 535 (1979); Redman,
15 942 F.2d at 1440-41. This right is violated if restrictions are “imposed for the purpose of
16 punishment.” Bell, 441 U.S. at 535. There is no constitutional infringement, however, if
17 restrictions are “but an incident of some other legitimate government purpose.” Id. In such
18 a circumstance, governmental restrictions are permissible. Salerno, 481 U.S. at 747.
19 Plaintiff fails to allege facts to support that his confinement in the H-pod for disciplinary
20 reasons is without some legitimate government purpose other than as punishment for the
21 criminal offenses with which he has been (or was) charged. He merely alleges that deputy
22 commanders declined to grant his appeal of disciplinary action and that he was subject to
23 additional restrictions. That does not state a claim for violation of his due process rights.

24 Plaintiff also alleges his conditions of confinement were unconstitutional. A prison
25 inmate’s claim for unconstitutional conditions of confinement arises under the Eighth
26 Amendment’s prohibition against cruel and unusual punishment. Bell v. Wolfish, 441 U.S.
27 520 (1979); Frost v. Agnos, 152 F.3d 1124, 1128 (9th Cir. 1998). To state a claim for
28 unconstitutional conditions of confinement, a plaintiff must allege that a defendant’s acts or

1 omissions have deprived the inmate of “the minimal civilized measure of life’s necessities”
2 and that the defendant acted with deliberate indifference to an excessive risk to inmate health
3 or safety. Allen v. Sakai, 48 F.3d 1082, 1087 (9th Cir. 1994) (citing Farmer v. Brennan, 511
4 U.S. 825 (1994)); see Estate of Ford v. Ramirez-Palmer, 301 F.3d 1043, 1049-50 (9th Cir.
5 2002). That is, a plaintiff must allege a constitutional deprivation that is objectively
6 “sufficiently serious” to result in the denial of “the minimal civilized measure of life’s
7 necessities.” Farmer, 511 U.S. at 834.

8 Plaintiff alleges that his safety was jeopardized because he had to shower in shackles
9 and other inmates had fallen under those circumstances. Jail officials are required to take
10 reasonable measures to guarantee the safety of inmates. Farmer, 511 U.S. at 832-33; Frost,
11 152 F.3d at 1128. To state a claim for threats to safety, however, an inmate must allege facts
12 supporting that he was incarcerated under conditions posing a substantial risk of harm and
13 that jail officials were “deliberately indifferent” to his safety. Farmer, 511 U.S. at 834; Frost,
14 152 F.3d at 1128; Redman v. County of Los Angeles, 942 F.2d 1435, 1443 (9th Cir. 1991)
15 (*en banc*). That is, a plaintiff must set forth facts to support that a defendant official knew
16 of an excessive risk to inmate safety, but disregarded the risk. Farmer, 511 U.S. at 837. Put
17 another way, “the official must both [have been] aware of facts from which the inference
18 could be drawn that a substantial risk of serious harm exist[ed], and he must also [have]
19 draw[n] the inference.” Farmer, 511 U.S. at 837; Frost, 152 F.3d at 1128; Redman, 942 F.2d
20 at 1442.

21 Plaintiff fails to allege facts to support that any inmate suffered serious harm as a
22 result of falling while shackled during showers or facts to support that Plaintiff ever fell or
23 was injured despite having been shackled during showers for several months. Plaintiff
24 therefore fails to allege facts to support the existence of a “substantial risk of serious harm.”
25 Farmer, 511 U.S. at 837. Plaintiff also fails to allege facts to support that any Defendant was
26 aware of any incident of an inmate being injured after falling while showering in shackles
27 or facts to support that any Defendant disregarded such risk. For these reasons, Plaintiff fails
28 to state a claim in Count I.

1 In Count II, Plaintiff asserts that he only has access to hygiene items for one hour a
 2 day three days a week. Although “[i]ndigent inmates have the right to personal hygiene
 3 supplies such as toothbrushes and soap,” whether conditions of confinement rise to the level
 4 of a constitutional violation may depend, in part, on the duration of an inmate’s exposure to
 5 those conditions. Keenan v. Hall, 83 F.3d 1083, 1089, 1091 (9th Cir. 1996) (citing Hutto v.
 6 Finney, 437 U.S. 678, 686-87 (1978)). ““The circumstances, nature, and duration of a
 7 deprivation of [] necessities must be considered in determining whether a constitutional
 8 violation has occurred.”” Hearns v. Terhune, 413, F.3d 1036, 1042 (9th Cir. 2005) (quoting
 9 Johnson v. Lewis, 217 F.3d 726, 731 (9th Cir. 2000)).

10 Plaintiff does not allege that he has been totally denied basic hygiene items. Rather,
 11 he only claims that he has been given only limited access to those items. Plaintiff also fails
 12 to set forth facts to support that limitation on access to personal hygiene products was
 13 objectively sufficiently serious so as to rise to the level of a constitutional violation. Further,
 14 Plaintiff fails to set forth facts to support how any Defendant acted with deliberate
 15 indifference to Plaintiff’s health or safety by limiting access to hygiene items or a resulting
 16 injury. For these reasons, Plaintiff fails to state a claim in Count II.

17 **D. Count III**

18 In Count III, Plaintiff alleges that while he was held in H-pod, his access to his
 19 personal and legal mail was limited to one hour three times a week, which he contends was
 20 insufficient to examine legal paperwork, call his family, or discuss his case with his attorney.
 21 An inmate retains First Amendment free speech rights not inconsistent with his status as a
 22 prisoner and with the legitimate penological objectives of the corrections system. See Shaw
 23 v. Murphy, 532 U.S. 223, 231 (2001); Clement v. California Dep’t of Corr., 364 F.3d 1148,
 24 1151 (9th Cir. 2004). Thus, jail personnel may regulate speech if such restriction is
 25 reasonably related to legitimate penological interests and an inmate is not deprived of all
 26 means of expression. Valdez v. Rosenbaum, 302 F.3d 1039, 1048 (9th Cir. 2002) (citing
 27 Turner v. Safley, 482 U.S. 78, 92 (1986)).

28 To the extent that Plaintiff asserts a lack of adequate time to confer with his attorney

in connection with his criminal case, he must raise that issue in his state court proceedings. Otherwise, time restrictions on access to correspondence does not, absent the allegation of additional facts, rise to the level of a constitutional violation. Plaintiff fails to allege any facts to support that any limitation on mail and/or his free speech rights were not reasonably related to legitimate penological interests, nor has he alleged facts to support that he has been denied all means of communication with friends, family, or counsel. For that reason, he fails to state a claim in Count III.

V. Leave to Amend

For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike the amended complaint and dismiss this action without further notice to Plaintiff.

Plaintiff must clearly designate on the face of the document that it is the "First Amended Complaint." The first amended complaint must be retyped or rewritten in its entirety on the court-approved form and may not incorporate any part of the original Complaint by reference. Plaintiff may include only one claim per count.

A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987).

VI. Warnings

A. Release

Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release. Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay

1 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result
2 in dismissal of this action.

3 **B. Address Changes**

4 Plaintiff must file and serve a notice of a change of address in accordance with Rule
5 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
6 relief with a notice of change of address. Failure to comply may result in dismissal of this
7 action.

8 **C. Copies**

9 Plaintiff must submit an additional copy of every filing for use by the Court. See
10 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice
11 to Plaintiff.

12 **D. Possible “Strike”**

13 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails
14 to file an amended complaint correcting the deficiencies identified in this Order, the
15 dismissal will count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).
16 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil
17 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior
18 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
19 court of the United States that was dismissed on the grounds that it is frivolous, malicious,
20 or fails to state a claim upon which relief may be granted, unless the prisoner is under
21 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

22 **E. Possible Dismissal**

23 If Plaintiff fails to timely comply with every provision of this Order, including these
24 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at
25 1260-61 (a district court may dismiss an action for failure to comply with any order of the
26 Court).

27 **IT IS ORDERED:**

28 (1) Plaintiff’s Application to Proceed *In Forma Pauperis* is **granted**. (Doc. #3.)

1 (2) As required by the accompanying Order to the appropriate government agency,
2 Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee of \$21.98.

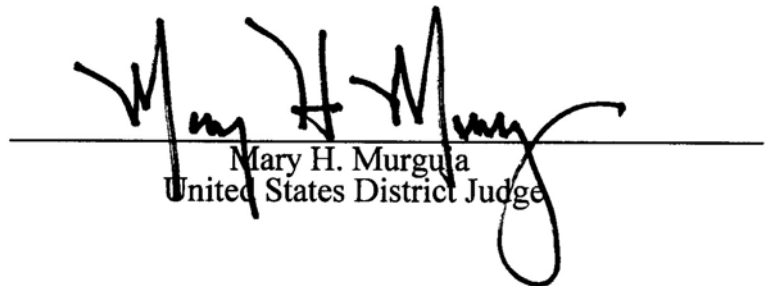
3 (3) The Complaint is **dismissed** for failure to state a claim. Plaintiff has **30 days**
4 from the date this Order is filed to file a first amended complaint in compliance with this
5 Order. (Doc.# 1.)

6 (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of
7 Court must, without further notice, enter a judgment of dismissal of this action with prejudice
8 that states that the dismissal counts as a "strike" under 28 U.S.C. § 1915(g).

9 (5) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
10 rights complaint by a prisoner.

11 DATED this 7th day of July, 2008.

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Mary H. Murgula
United States District Judge

**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing Fee. The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$350 filing fee or the application to proceed *in forma pauperis* to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts.** You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved.** Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. **Supporting Facts.** After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury.** State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies.** You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

_____,
(Full Name of Plaintiff) **Plaintiff,**

VS.

CASE NO. _____
(To be supplied by the Clerk)

(1) _____,)
(Full Name of Defendant))

(2) \dots

(3) $\mathcal{C}_1 \cap \mathcal{C}_2 = \emptyset$ and $\mathcal{C}_1 \cup \mathcal{C}_2 = \mathcal{C}$.

$$(4) \quad \dots$$

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CIVIL RIGHTS COMPLAINT BY A PRISONER

☐ Original Complaint

☐ First Amended Complaint

☐ Second Amended Complaint

1. This Court has jurisdiction over this action pursuant to:

- ☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- ☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
- ☐ Other:

2. Institution/city where violation occurred: _____

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

COUNT II

1. State the constitutional or other federal civil right that was violated: _____.
 2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	
 3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

_____.
 4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

_____.
 5. **Administrative Remedies.**
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 - b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
 - c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____.
2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____.
3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

_____.
4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

_____.
5. **Administrative Remedies.**
- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.